

MAINE STATE LEGISLATURE

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*State Of Maine
120th Legislature*

Second Regular Session

Bill Summaries

*Joint Standing Committee
on
Criminal Justice*

May 2002

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120th Legislature
Second Regular Session

Summary Of Legislation Before The Joint Standing Committees
May 2002

Enclosed please find a summary of all bills, resolves, joint study orders, joint resolutions and Constitutional resolutions that were considered by the joint standing select committees of the Maine Legislature this past session.

The document is organized for convenient reference to information on bills considered by the committees. It is arranged alphabetically by committee name and within committees by bill (LD) number.

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

- CON RES XXX..... Chapter # of Constitutional Resolution passed by both Houses
CONF CMTE UNABLE TO AGREE..... Committee of Conference unable to agree; bill died
DIED BETWEEN BODIES..... House & Senate disagree; bill died
DIED IN CONCURRENCE..... One body accepts ONTP report; the other indefinitely postpones the bill
DIED ON ADJOURNMENT..... Action incomplete when session ended; bill died
EMERGENCY..... Enacted law takes effect sooner than 90 days
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE..... Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE..... Bill failed to get majority vote
FAILED MANDATE ENACTMENT..... Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY..... Ruled out of order by the presiding officers; bill died
INDEF PP..... Bill Indefinitely Postponed
ONTP..... Ought Not To Pass report accepted
OTP ND..... Committee report Ought To Pass In New Draft
OTP ND/NT..... Committee report Ought To Pass In New Draft/New Title
P&S XXX..... Chapter # of enacted Private & Special Law
PASSED..... Joint Order passed in both bodies
PUBLIC XXX..... Chapter # of enacted Public Law
RESOLVE XXX..... Chapter # of finally passed Resolve
UNSIGNED..... Bill held by Governor
VETO SUSTAINED..... Legislature failed to override Governor's Veto

Please note the effective date for all non-emergency legislation enacted in the Second Regular Session (unless otherwise specified in a particular law) is July 25, 2002.

Patrick T. Norton, Interim Director
Offices located in Room 215 of the Cross Office Building

Joint Standing Committee on Criminal Justice

Committee Amendment "A" (S-499) proposed to replace the bill and do the following:

1. Add definitions to the Maine Criminal Code to address scientific advances in the methods that may be used to commit the crime of causing a catastrophe and create the new definition "terroristic intent;"
2. Amend the crime of elevated aggravated assault to include when a person with terroristic intent engages in conduct that in fact causes serious bodily injury to another person;
3. Create the crime of aggravated reckless conduct. A person is guilty of this crime if the person with terroristic intent engages in conduct that in fact creates a substantial risk of serious bodily injury to another person;
4. Amend the crime of causing a catastrophe if the person acts with terroristic intent by lowering the threshold for harm to causing death or serious bodily injury to more than one person, substantial damage to 3 or more structures, whether or not occupied, or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure; and
5. Add a fiscal note.

Enacted law summary

Public Law 2001, chapter 634 makes the following changes to the Maine Criminal Code to address terrorism.

1. It adds definitions to the Maine Criminal Code to address scientific advances in the methods that may be used to commit the crime of causing a catastrophe and creates the new definition "terroristic intent."
2. It amends the crime of elevated aggravated assault to include when a person with terroristic intent engages in conduct that in fact causes serious bodily injury to another person.
3. It creates the crime of aggravated reckless conduct. A person is guilty of this crime if the person with terroristic intent engages in conduct that in fact creates a substantial risk of serious bodily injury to another person.
4. It amends the crime of causing a catastrophe if the person acts with terroristic intent by lowering the threshold for harm to causing death or serious bodily injury to more than one person, substantial damage to 3 or more structures, whether or not occupied, or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure.

LD 2163

An Act to Implement the Recommendations of the Commission to Study Domestic Violence

PUBLIC 686

Sponsor(s)

Committee Report

Amendments Adopted

OTP MAJ
OTP-AM MIN

H-883
S-617 GOLDTHWAIT

Joint Standing Committee on Criminal Justice

LD 2163 was a committee bill and the majority report. LD 2163 proposed to implement recommendations of the Commission to Study Domestic Violence, which was created pursuant to Resolve 1999, chapter 126. The bill proposed to do the following:

1. Amend the law regarding bail commissioners to specify that, in a case involving domestic violence, a bail commissioner may not set preconviction bail for a defendant before the bail commissioner has made a good faith effort to obtain from the arresting officer, the district attorney, a jail employee or other law enforcement officer, the following: a brief history of the alleged abuser; the relationship of the parties; the name, address, phone number and date of birth of the victim; and existing conditions of protection from abuse orders, conditions of bail and conditions of probation;
2. Require that bail commissioners receive mandatory training not later than 180 days following appointment, unless the Chief Judge of the District Court determines that the bail commissioner is qualified to carry out the responsibilities of a bail commissioner based on equivalent experience or training;
3. Require the Chief Judge of the District Court to establish a regional continuing education program for bail commissioners that includes regular meetings of the bail commissioners and members of the judiciary and, at a minimum, training in accepted practices in domestic violence cases and best practices concerning uniform bail conditions;
4. Give the court authority to prohibit the possession of firearms and other dangerous weapons as a condition of a temporary protection order if the court determines that the defendant has a history of violence. The court could impose this condition only if the court discusses the plaintiff's request for the condition prohibiting possession of firearms or other dangerous weapons in person with the plaintiff, and the court determines that the prohibition of possession of firearms or other dangerous weapons is an appropriate condition of an order after considering at least the following: the defendant's history of violence; the type of abuse alleged; any reason that the defendant may have to possess firearms or other dangerous weapons, including their use in employment; and any other issue that the court determines relevant to the complaint;
5. Amend the requirements of law enforcement agencies to develop certain policies by specifying that policies regarding domestic violence must include, at a minimum, the following: a process to ensure that victims receive notification of the defendant's release from jail; a risk assessment for a defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made; and a process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and at least 24 hours notice to each party prior to the retrieval;
6. Enact language that authorizes district attorneys to appoint law enforcement officers as domestic violence investigators. Investigators would have to meet the requirements of the Maine Revised Statutes, Title 25, section 2804-C and be certified as full-time law enforcement officers. Investigators would have the same statutory powers as deputy sheriffs;
7. Require the Department of Corrections to report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of batterers intervention programs;

Joint Standing Committee on Criminal Justice

8. Reestablish the Commission to Study Domestic Violence, with the same members as the study commission created pursuant to Resolve 1999, chapter 126. As proposed, the commission would invite the participation of experts and interested parties and gather information and request necessary data from public and private entities in order to review the following issues and develop recommendations and implementing legislation if appropriate: predominant aggressors; models of supervised visitation; conflicts created by coexisting orders and conditions, including mutual orders; models of uniform domestic violence incident reports and other standard reporting tools for law enforcement officers; the inconsistency in the definitions of "family or household members" in the statutes; confidentiality programs that allow access to public records without disclosing the location of domestic violence victims; whether Maine Rules of Criminal Procedure, Rule 4 needs clarification or amendment to authorize courts to set conditions of bail on warrants; a number of elements of the protection from abuse process; educational components of bail commissioner training and continuing education; conditions of bail that bail commissioners can order; and the status and progress of technology and computerization of criminal history records, protection orders and bail conditions. The bill proposed that the commission report its recommendations and implementing legislation to the Legislature by November 6, 2002;
9. Include a fiscal note.

Committee Amendment "A" (H-883) was the minority report of the Joint Standing Committee on Criminal Justice. The amendment proposed to implement the same recommendations of the Commission to Study Domestic Violence, pursuant to Resolve 1999, chapter 126, as the majority report, except that the amendment did not propose amending the law to give the court authority to prohibit the possession of firearms and other dangerous weapons as a condition of a temporary protection order if the court determines that the defendant has a history of violence.

House Amendment "A" to Committee Amendment "A" (H-1000) proposed to make it a Class C crime to violate a protection order while having direct physical control of a firearm or other dangerous weapon, regardless of any other authority to possess that weapon. The amendment also proposed that a protective order issued to a defendant is required to have a statement to this effect. This amendment was not adopted.

Senate Amendment "A" to Committee Amendment "A" (S-508) proposed to require the court, at the request of the plaintiff at an ex parte proceeding for interim relief for protection from abuse, to hold a hearing no sooner than 48 hours after the request by the plaintiff nor later than 5 days after such a request. The amendment proposed that at this hearing the court may prohibit the possession of a firearm or other dangerous weapon by a defendant if the court determines that the defendant has a history of violence. The amendment proposed that the court may impose this condition only if the court discusses the plaintiff's request for the condition prohibiting possession of a firearm or other dangerous weapon in person with the plaintiff and the court determines that the prohibition of possession of a firearm or other dangerous weapon is an appropriate condition after considering at least the following: the defendant's history of violence; the type of abuse alleged; any reason that the defendant may have to possess a firearm or other dangerous weapon, including its use in employment; and any other issue that the court determines relevant to the complaint. The amendment also proposed that with the consent of the parties, this hearing may be a full hearing as provided by law. This amendment was not adopted.

Joint Standing Committee on Criminal Justice

Senate Amendment “B” to Committee Amendment “A” (S-509) proposed to authorize the court to prohibit the possession of firearms by the defendant if the court determines that one or more acts of alleged abuse were committed with the use or threatened use of a firearm or dangerous weapon. This amendment also proposed to add language that requires that the person serving the order must notify the defendant of the rights regarding acceptance of service, and that the defendant can either accept the condition or contest the condition, in which case the process for an expedited hearing on the condition is triggered. This amendment was not adopted.

Senate Amendment “C” to Committee Amendment “A” (S-617) proposed to amend Committee Amendment “A” by removing all parts of that amendment that deal with appropriations and allocations. Specifically, the amendment proposed to amend Committee Amendment “A” in Part A by striking out all of: section 2 regarding the initial training and continued education of bail commissioners by the Chief Judge of the District Court; Part E establishing the Commission to Study Domestic Violence; and Part F, the appropriations and allocations section. This amendment proposed to reduce the General Fund cost of the bill by \$426,050 in fiscal year 2002-03.

Enacted law summary

Public Law 2001, chapter 686 was a committee bill and the minority report of the Joint Standing Committee on Criminal Justice. Public Law 2001, chapter 686 implements a number of recommendations from the Commission to Study Domestic Violence, pursuant to Resolve 1999, chapter 126. Public Law 2001, chapter 686 does the following.

1. It amends the law regarding bail commissioners to specify that, in a case involving domestic violence, a bail commissioner may not set preconviction bail for a defendant before the bail commissioner has made a good faith effort to obtain from the arresting officer, the district attorney, a jail employee or other law enforcement officer, the following: a brief history of the alleged abuser; the relationship of the parties; the name, address, phone number and date of birth of the victim; and existing conditions of protection from abuse orders, conditions of bail and conditions of probation.
2. It amends the requirements of law enforcement agencies to develop certain policies by specifying that policies regarding domestic violence must include, at a minimum, the following: a process to ensure that victims receive notification of the defendant's release from jail; a risk assessment for a defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made; and a process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and at least 24 hours notice to each party prior to the retrieval.
3. It enacts language that authorizes district attorneys to appoint law enforcement officers as domestic violence investigators. Investigators must meet the requirements of the Maine Revised Statutes, Title 25, section 2804-C and be certified as full-time law enforcement officers. Domestic violence investigators have the same statutory powers as deputy sheriffs.
4. It requires the Department of Corrections to report annually to the joint standing committee of the Legislature having jurisdiction over criminal justice matters regarding the work of batterers intervention programs.